



Hayek, the New Right, & the Crisis of Social Democracy

By Samuel Brittan

SINCE THE PUBLICATION of his *Road to Serfdom* in 1944, Friedrich Hayek has been cursed by sneerers, who dismiss everything he has to say without giving it a hearing, and even more by admirers, who agree with it before they have studied it, and regard it mainly as a highbrow stick with which to beat the Left.

Yet there are many reasons for trying to come to terms with what he has been saying. The completion of *The Political Order of a Free People*,¹ the third and last volume of his *Law, Legislation and Liberty*, provides a suitable opportunity for an interim assessment. The emergence of what has been called "the New Right", symbolised by events such as the victory of the tax-cutting Proposition 13 in the Californian Referendum and of Mrs Thatcher in the UK general election of 1979, makes it topical to do so. So, of course, do the retreat from Keynesian economics and the collapse of post-War full employment policies in one country after another, which Hayek has been warning would happen since the time when these policies existed only as aspirations in wartime White Papers.

Although Hayek's teachings are by no means identical with those of "the New Right", and can indeed be used to provide an effective critique of it, there is clearly something in common. It can hardly be a coincidence that Hayek was cited far more frequently than any other author in the list of favourite books published by "Aims of Industry" for its "Freedom Book Fair" of 1979. Some of the items that appear puzzling in the doctrines and practices of "the New Right" are also to be found in Hayek's writings; and it is more interesting to make the effort of understanding through the works of a major thinker than by examining the contradictions of political practitioners or their journalistic apologists.

¹ *The Political Order of a Free People*. By F. A. HAYEK. Routledge, £5.95.

Most important for all, there is a great deal to be learned from Hayek's teachings, even by—or especially by—people who do not consider themselves either Hayekians or members of "the New Right." Hayek himself has not made it any easier for them by his explicit assumption in writings over three-and-a-half decades that something called "Socialism", which includes the doctrines of Social Democrats—and indeed of non-Thatcherite Conservatives—is the intellectual and political enemy. If Hayek believes, as he does, that socialists and their pale pink imitators in other parties are guilty of "scientific error" (he never doubts their moral goodwill), liable to usher in an age of barbarism, it has been his duty to say so and not to shelter, as so many academics do, behind a bogus impartiality. Nevertheless, in my own view, "Collectivism" would be a more accurate name than socialism for the evils which Hayek has diagnosed, and would indicate more clearly that its practitioners extend throughout the political spectrum.

Another obstacle is the elusiveness of much of Hayek's writings and the lack of examples. The clarity of *The Road to Serfdom* is, alas, not typical of his other work; although it is only fair to add that his obscurities are far more worth pondering than most of the trivia with which other economists regale us and which are forgotten within a very short time.

THE TASK OF ASSESSMENT is further compounded by the fact that Hayek's writings cover many subjects ranging from (to take a few examples) the philosophy of perception and social biology to jurisprudence and currency competition. They are not in water-tight compartments. The author sees important links between them. But they have developed over the years and are thus to be found scattered over many different works. Indeed the newcomer might do well to look at Norman Barry's

study Hayek's *Social and Economic Philosophy*² before reading the original work. Barry lists the main ideas with exemplary clarity. He also puts them in the context of mainstream doctrines with which the reader is more likely to be familiar. While essentially sympathetic, Barry lists the major difficulties and contradictions. The main shortcoming—if it is that—is that he does not express a view on the relative importance of Hayek's various doctrines or give an overall judgment of his own on the whole philosophy.

At a more technical level, Barry overstates the relevance of Hayek's subjectivist and axiomatic philosophy of social science, before he came under the influence of Sir Karl Popper, important though this phase was for Hayek's own intellectual development. Hayek's later critique of bogus quantification based on the complexity of the phenomena studied has more to tell us now. His essential point is that we cannot count on the good fortune of being able to discover by direct observation simple quantitative regularities between economic variables—but it is still possible and worthwhile to formulate general rules. For instance, economic theory can tell us that we cannot maintain a fixed rate of exchange and at the same time maintain an independent monetary policy with a national price level objective. But this does not mean that we can predict where the exchange rate will go if the latter option is chosen.

The breakdown of one supposed numerical relationship after another in macroeconomics in the last decade has made this view far less eccentric than it appeared in the heyday of econometric pre-

diction. Keynesian-type relations between consumption and income, and monetarist predictions of “the demand for money” have alike failed to give even rough enough approximations of use for policy. Writers themselves reared in the quantitative tradition have recently begun to stress that the relationships in their equations (“parameters”, to use this word for once in its correct sense) are not stable, and depend on such forces as the climate of expectations and the policies that the authorities are believed to be following. Much of the discredit into which economics has fallen would fail to surprise readers of Hayek's methodological papers of the late 1950s and early 1960s.³

In this essay I can only touch on a few themes, starting in areas where Hayek seems to me to be misguided, but still illuminating, and then passing on to areas of greater agreement. The reader is warned that the space devoted to each topic has nothing to do with its relative importance.

1. The New Right

THE NEW RIGHT places a good deal of emphasis, alien to many market economists, on a return to “the old values.” The less clearly one tries to define the phrase “old values” the more accurate one will be. But it clearly covers a belief in patriotism, authority of the traditional kind centering round the family, the school, the business manager, and, above all, the police and army. These are felt to be legitimate in contrast to bureaucrats and tax inspectors, who are regarded as *ersatz* authority figures, all too ready to act as subversives themselves. It has always been an intellectual paradox that the non-Muscovite Left favours freedom in everything but economics, while the Right is sympathetic to freedom only in the economic sphere. The evolution of the New Left and the New Right has not dissolved the paradox created by their old parents.⁴

Where apparently contrasting attributes are found among practising politicians, or bodies of electors, one can do little but note the paradox and pass on. A vast number of different permutations of beliefs on different subjects have at one time or another been grouped together. Among some ascetic religious sects “plain living” has been linked, with apparent logic, to an abhorrence of technical progress. Among others such progress has been highly prized, for apparently equally cogent reasons. Nor is it surprising that middle-class Conservative voters should favour market forces for pay differentials, but advocate state intervention to reduce the cost of home mortgages. It is always a possibility to create a distinction between such cases and thus rationalise an apparent anomaly, if only one thinks hard enough.

² Hayek's *Social and Economic Philosophy*. By NORMAN BARRY. Macmillan, £12.

³ Reprinted in F. A. Hayek, *Studies in Philosophy, Politics and Economics* (Routledge, 1967).

⁴ How far the Conservatives are from any general sympathy with freedom was brought out clearly by Patrick Cormack, MP, when opposing a motion by a Labour Member for leave to bring in a Bill to abolish corporal punishment in schools. “There is something to be said for the old adage that if one spares the rod one spoils the child. . . .” He then attacked the “increasingly lackadaisical, permissive and libertarian atmosphere pervading many of our schools” (*Hansard*, 20 January 1976). This is not the language of man with a profound attachment to freedom, pointing out that some derangements are required for minors.

Mr Cormack turns up again as the editor of *Right Turn* (London, 1978) in which seven ex-Socialists and one ex-Liberal explained that they were switching to the Conservatives because of the threat to freedom from Labour's current drift. Mr Cormack's earlier utterance—together with the lack of repudiation by any liberal Conservative, and the presence of *not one* Conservative Member on the list of MPs voting for leave to bring in the anti-corporal punishment Bill—convinced me after earlier hesitations that the Conservative Party was decidedly not where I wished to be. I shall always be grateful to Mr Cormack for shining (however unintentionally) the amber light in good time.

2. Evolution & Liberty

YET WHEN HAYEK himself combines libertarian economic beliefs with authoritarian inclinations in other directions, it is time to sit up and take notice. I may claim to have contributed in a mild way to the revival of interest in Hayek with my own *Capitalism and the Permissive Society* (1973), which came out in favour of *both* of these things. The first page of the first chapter of Hayek's classic *Constitution of Liberty* (1960) starts with the sentence:

"We are concerned in this book with that condition of men in which coercion of some by others is reduced as much as possible."

He contrasts his idea of freedom with Ignatius Loyola's ideal of the Jesuit who should be "as soft wax" in the hands of his superior, putting all his fervour into "executing zealously and exactly what he is ordered."

Yet familiarity with Hayek's work makes it clear that he himself could not possibly regard a title endorsing the "permissive society" as anything but a distortion of his message. Indeed the Epilogue of the final volume of his last major work, *Law, Legislation and Liberty*, includes a fierce denunciation of permissiveness in general and educational permissiveness in particular. "Permissive education" has become a cant slogan covering a wide range of different practices. Yet it is remarkable that someone who wishes to reduce the role of coercion in human affairs should express unqualified hostility, although not in as crude a way as Patrick Cormack, to those who wish to reduce the role of coercion in the bringing-up of young people.

Nor is this a unique example from a late phase of Hayek's writing. In *The Constitution of Liberty* itself there are passages endorsing peacetime conscription—in striking contrast to Milton Friedman's personal lobbying against the US draft. Indeed, in a much earlier essay, *Individualism and Economic Order* (1948), Hayek praises the conformism of the inter-War British public school student, in contrast to the personal diversities cultivated by their Continental counterparts.

3. Evolutionary Values

THE MOST REVEALING PART of Hayek's new trilogy is the Appendix to the third volume entitled "The Three Sources of Human Values." The source which Hayek wants to emphasise is evolved social institutions. Not every part of behaviour is either hereditary or the result of deliberate intention. It can also result from traditions, rules, and institutions, which are the product of a social rather than a biological evolution, and are thus the result of human action, but not of

conscious human intention.

In contrast to libertarians, such as Milton Friedman, who take liberty as an absolute value, Hayek is quite ruthless in saying that the test of evolutionary rules is the simple one of success, identified, in turn, with progress. Resistance to the commercialisation and repressions of modern civilisation, whether from the romantic Right or the libertarian Left, arises from our tribal inheritance and impossible longings to get back. Hence Hayek's deep-seated opposition to the teachings of Freud and their attempt to bring into the open instinctive or unconscious longings and desires.

To those of us brought up on Hayek's definition of freedom as the absence of coercion, his condemnation of permissiveness comes as a shock. What he really dislikes about educational or social permissiveness, and has frequently condemned in the Bloomsbury of Keynes's day, is the notion that rules which cannot be rationally explained do not have to be observed; or that people of any age should "reason why" before accepting rules—conventional as well as legal. The argument, familiar from earlier writings, stems from the belief that conventional rules embody more inherited knowledge and experience than any individual could be capable of ascertaining himself.

Thus while Hayek's ultimate values are those of the radical apostle of human progress, his ethical philosophy is highly conservative. He faces the question of how rules should change; and maintains that we break them at our peril. Innovators may experiment with new rules or practices, but always at their own risk. The test is whether they can get away with them. Moreover, the pioneer of new rules can proceed on only one or two fronts at a time. The condition of his success is his acceptance of the great bulk of other rules which, like his fellows, he follows blindly.

This looks like pretty standard conservative philosophy with which Edmund Burke would have felt at home. But there are important ways in which Hayekian social biology is very different from old conservatism. First, he actually welcomes the disturbance and change of the last two centuries. These have, he believes, been brought about by individual effort and initiative within a known framework of rules. Gradual changes in the rules themselves will, Hayek believes, further progress so long as they are spontaneous. But frequent deliberate tampering with the rules by over-ambitious reformers will, he fears, put an end to the whole development that began with the Renaissance and received a new lease of life from the Industrial Revolution.

The interesting question about this blend of radical evolutionary fervour and conservative insistence on rule observance is why someone holding it should regard himself as a libertarian, which Hayek undoubtedly does. Not only that, but he is

recognised as such by a number of others whose entitlement to the label cannot be questioned.

The libertarian element is injected into Hayek's philosophy by the assumption that rules which have evolved through custom or common law will in practice allow a large amount of individual freedom. Certain courses of action and behaviour will be forbidden; but, apart from those, people will really be free to "do their own thing." Granted the premise that evolution is towards libertarian rules, then all the arguments about not seeking to impose a conscious, artificial pattern on our inheritance point in a libertarian direction. But liberty is, in the last analysis, an instrumental value in the service not of happiness or welfare, but of progress—material and intellectual—seen as an end in itself.

4. Towards a Critique

HOW ACCEPTABLE is this outlook? Hayek's ultimate criterion is open to serious question. By "progress" he basically means movement and increase of complexity (in the biological sense). This is not a self-evident ethical yardstick. There are more important things (e.g. happiness) than "the evolution of the human race", even assuming that we can identify it unambiguously when we see it. Advance may be for the bad; and it is not a sufficient condemnation of intervention in the rules, of even a highly liberal society, to say that it may "hold up progress."

Utilitarianism is a more plausible and attractive alternative starting point, although also incomplete as a social philosophy. It can be interpreted, as Jeremy Bentham originally did, as "the greatest happiness for the greatest number." Or it can be interpreted as the maximum satisfaction of individual preferences—letting as many people as possible have as much as possible of whatever it is that they want.

Of course utilitarianism has its problems. "The greatest number" of Bentham's formula can hardly be taken literally. To increase satisfaction by increasing population is not a very attractive aim. Even if it is interpreted to mean "the maximisation of welfare per head", there are obstinate problems. It is not only the *average* satisfaction in a community that matters but its distribution. A high average level of satisfaction is insufficient com-

⁵ The classic objection of the Evolutionist to the Utilitarian is that "It is better to be Socrates unhappy than a pig happy." But the argument is irresolvable. It is part of being Socrates that the happiness of the pig is denied to him; and the idea of taking a drug such as Huxley's *soma*, which would induce continual feelings of joy, would be so excruciatingly painful to Socrates *ex ante* that he would be wise on utilitarian grounds not to do so. On the other hand, the pig does not, by definition, know what he is missing.

pensation for the existence of an oppressed or destitute minority. (On top of this are the well-known problems of interpersonal comparisons and the meaning to be attached to want satisfaction with a changing population and changing tastes.)

Nevertheless, utilitarianism does at least have the virtue of taking as its ultimate criterion the individual and his needs, wants, or desires, as expressed in his behaviour. Evolutionism has at least as many difficulties of definition and formulation, but has a less humane starting point.⁵

But it is not merely the outside critic who has difficulties with Hayek's rule-bound Evolutionism. Hayek has difficulty himself. If there is an inbred wisdom, not apparent to the naked eye, in the evolution of common law or common custom, why deny this hidden wisdom to more interventionist or authoritarian structures? After all, institutions such as rent control, price control, a large nationalised sector, and heavy progressive taxation have existed in many countries for generations and have often evolved gradually. Might they not contain their own wisdom, not obvious to Hayek when writing as an economist? And will not, say, the abolition of rent control in Britain—let alone the reintroduction of capitalism, or free elections, in the Soviet Union—set in train all sorts of events not foreseeable by the simple-minded democrat or free-market economist who looks only at immediate consequences? Indeed are not Hayek's own economic arguments for free markets as superior ways of disseminating information and coordinating activity put into jeopardy by Hayek's philosophical insistence on our invincible ignorance of longer-term consequences? The introduction of a free market—say in the transmission of television programmes—can have remote effects on values, tastes, and behaviour never suspected by the economist who thinks in terms of satisfying existing consumer preferences.

Indeed, nothing could smack more of social engineering and be less respectful of slowly emerging rules and practices than Hayek's two most recent policy suggestions. One is for the competitive circulation of rival privately-issued currencies. The other is for two parliamentary assemblies, elected in highly novel ways: the first concerned with the passing of laws and the second with supervising the policy and administration of the government of the day.

These contradictions can be resolved in a formal way by saying that, normally, spontaneous social evolution is the best way to change society. But occasionally social organisms, like natural ones, develop diseases, and drastic surgery may then be necessary. The problem then is to say who is to be entrusted with the diagnosis. (It is rather similar to the problem with the Marxist system, under which human beliefs are determined entirely by class status. But Marx and his disciples have somehow

managed to escape from this class determination, and they alone are able to analyse society "objectively."

It is more fruitful to avoid such artificial reconciliations and to accept that Hayek is attracted to two different political philosophies: classical liberalism (based on limited government, free markets, and the rule of law) and a conservative philosophy which stresses tradition and the hidden wisdom of existing institutions. When in some golden age—say Gladstonian England, as seen through nostalgic spectacles—the prevailing tradition was itself that of classical liberalism the two systems of Hayek might seem in harmony. When prevailing constitutions are authoritarian or collectivist, there is tension between the two ideals.

5. Alternative Approaches

WHAT ARE THE MAIN alternatives for those who find the Hayekian outlook, so far from displaying the anarchism of which it is accused by ignorant critics, too authoritarian in many elements? Even if the evolutionary ethics are removed, individual freedom is left to depend on Hayek's writing on "the Rule of Law"—by which he means the generality of rules. This is a necessary but not a sufficient condition for a free society.

One alternative is the thoroughgoing libertarianism of certain Americans. Some young libertarians (including Milton Friedman's son, David) call themselves "anarcho-capitalists" and believe that personal safety and property can be secured by private armies and police forces; and that the way to choose between rival rules of law is competition, including competition between courts, in which the better system will gain adherents and be enforced in private bargains.⁶ The arguments used are often ingenious and subtle. But the reality

⁶ David Friedman, *The Machinery of Freedom* (1973).

⁷ E.g. Robert Nozick, *Anarchy, State and Utopia* (1974).

⁸ Failure to take this into account is a blemish on an otherwise excellent and eloquent restatement of Hayekian doctrines in *Liberty and Language*. By GEOFFREY SAMPSON. Oxford University Press, £5.75.

Mr Sampson's statement comes as an extended digression in the course of a book arguing (a) that Noam Chomsky's brand of egalitarian anarchism involves not freedom but "the total subordination of individuals to a collective will", and (b) that contrary to Chomsky's claim it does not follow from the latter's linguistic discoveries (to which Mr Sampson provides the most comprehensible introduction which I have seen).

But his own exposition of classical liberalism, in many ways the best summary available, is marred by opposition to even minimal state provision of a fallback income for those without resources, as well as by subtly argued but still wrong-headed opposition to "laws forbidding the employment of young children in coal mines." On neither point is he in line with Hayek.

which corresponds to such proposals is too much like the warring private armies of Renaissance Italy, or the feuding factions of the Mafia and the Red Brigade in the Italy of today. These are potentially even more oppressive than many authoritarian governments—and hardly a model for reformers.

Those libertarians who wisely retain the idea of state authority would confine it to "night watchmen" activities, mainly law and order, and defence. Such writers are far more clear-cut in their policy views than Hayek. But they achieve this clarity by advocating thoroughgoing *laissez-faire*.⁷ There would certainly be no conscription, no anti-drugs legislation, and no interference in private sexual behaviour. But there would also be no social security—not even the provision of the barest minimum—and nothing remotely resembling a health service. There would be no place for town-and-country planning rules. Attempts to limit the spillover effect of one man's use of space on his neighbours would be confined to what could be achieved by a suitable framework of property rights with a wider concept of damages than exists at present.

On most issues of permissiveness *versus* authority I find myself on the side of the American-style libertarians. But when it comes to the redistribution of income to those at the lower end of the income and property scale, I would go further than Hayek himself, or most middle-of-the-road politicians, in the direction of a negative income tax or social dividend. The libertarians are not necessarily lacking in personal compassion; but their system is. Redistribution in any democratic society depends on altruism or solidarity on the part of the more fortunate citizens. But whether one thinks of the relief of poverty or (more ambitiously) of income redistribution, personal charity is not enough—for reasons of economic logic. Redistribution is, like defence, a "public good." This means that there is little incentive for the individual to provide it. I might be—indeed would be—willing to pay a voluntary contribution to transfer some of my income to the poor as part of a compact with millions of others. But it would not be rational for me to do so, to the same extent, on my own.⁸ The benefit to the income of the poor would be negligible, and the loss of my own income and welfare substantial. (These very elementary considerations are discussed in contemporary economic literature in off-puttingly technical articles about "Pareto-optimal redistribution".)

SIMILAR ARGUMENTS about public goods apply to support for the Arts. There is a great deal of contemporary music which I, along with many other concert-goers and record-buyers, am quite unable to appreciate. But I accept the arguments for

supporting it, and I will pay my share if other taxpayers will do the same; passing round the hat is not a substitute. There will be other activities which I would be unwilling to support on a club basis, but other taxpayers would not be. A lot of state activity can be understood as a substitute for a network of large-scale contracts, which it would be prohibitively expensive to negotiate privately, both because of transaction costs and because of the incentive to act as a free rider and leave others to finance the activities of which one privately approves.

The argument against state intervention and subsidies is not that they should not take place at all; but that, for reasons endemic to the political process, much real-world intervention impairs rather than improves the unaided market, and the redistributions effected are inefficient, largely self-cancelling, taken at the behest of interest groups, and justified by no ethical principles whatsoever.

Moreover, the "equality" which is professed as an ideal by even quite "right-wing" Social Democrats—it was Roy Jenkins who said in 1952 "Socialism is about Equality", Tony Crosland continued to believe this to the end, and it is also assumed without question in many current academic works—is an ambiguous and dangerous goal. Equality owes its popularity to the widespread sentiment in favour of "levelling-up" the incomes of the poor. But considered as an arithmetical goal the "levelling-down" of the better-off, or the removal of opportunities to rise, also counts as a contribution to equality—even if it actually makes the poor worse-off because of its effects on incentives, and thus on state revenues available for redistribution.

Thus, because of its ambiguity and the range of policies it justifies, "equality" has too often become a respectable pretext for envy, malice, and jealousy, as well as for compassion. It should be dropped as a social objective in favour of more explicit statements of redistributive goals.

6. Dilemmas of Freedom

ALTHOUGH MY SYMPATHIES are on the side of liberty when it clashes with equality (e.g. the right to spend income on private medical treatment or on first-class travel tickets), the treatment of liberty in the classical liberal texts has come to worry me increasingly. The mistake of classical liberals and, even more, of the New Right conservatives is to equate *all* authority with *state* authority. Oppression in an Old People's or Children's Home, or even in the family, can be just as great.

As John Stuart Mill pointed out, conformism and the intolerance of individual divergence in small local communities can in practice be the greatest obstacles to individual liberty. The option

of "voting with one's feet" and finding elsewhere a community to one's own taste, on which many modern free-market writers base their preference for local over central government, exists mainly for prime-age adult males, who make up a minority of the total population. Hayek's ideal of abstract impersonal law is more likely to be applied—admittedly, at some bureaucratic cost—in centrally-administered federal or national services than at a local government or community level. The trouble there is that everybody knows everyone else; and although it is easier to take account of particular circumstances, it also becomes easier to bend general principles in favour of those who matter locally and against those considered a nuisance.

Libertarian doctrine applies most convincingly either to "ageless" isolated individuals or adult heads-of-family. It is much less convincing for the many people who are too young, or too old, or too dependent, or too muddled to "stand on their own feet", and to take out their own insurance against the vicissitudes of life.

The difficulty of the modern libertarian is to find a way of combining the Christian-socialist awareness that we are most of us very vulnerable and terribly dependent on the help and sympathy of others, with the equally important insight that the attempt to coerce someone into being a tool or instrument of another is a great evil.

Mill's distinction between "self-regarding" and "other-regarding" action is an essential protection against public interference with private behaviour among consenting adults. But by itself it is insufficient. Almost anything that anyone does is liable to "affect others" unless in an enclosed space behind curtains. Is liberty to make offensive gestures to others in the streets, or to fornicate in public, or to be smelly or unsightly in crowded places, a basic human right? Do I have to enlist to fight for these things because I find the military sadism shown in *Chips with Everything*, the public-school horrors of *If*, or the use of the closed shop to bar people from a chosen profession equally offensive?

A DISPOSITION TOWARDS personal freedom, both as an end in itself and as a means to other ends, does not imply that it should be the only political value. There may at times have to be a trade-off between freedom and other goals. The heavy (and arbitrarily enforced) penalties on all soft drugs in most countries, when people are rightly allowed to drink and smoke at their own risk, reflect mainly intolerance and prejudice. But a recognition of this does not commit one to legalising heroin; nor to adopting on such matters a completely *a priori* attitude towards the law which would treat all research findings with disdain.

What label, then, is to be attached to someone who is attracted to both freedom and to utilitarian ideals, who accepts redistribution but not equality, who sees a case for a good deal of state intervention and subsidy, but finds nearly all the interventions of the last decade or so (and a good deal of the earlier type, such as rent control) pernicious and misguided?

In the end I can think of no better label than "social democrat", but a social democrat of an oddball variety, who believes that neither the man in Whitehall nor the local social worker necessarily knows best, yet also does not find "leaving other people to go to hell in their own way" an attractive social morality. A rational social democrat will, on many economic issues, have more sympathy with Margaret Thatcher or Raymond Barre or William Simon than with their critics (or rather with what these "right-wing radicals" would do if they really had the convictions they were supposed to have, as well as the courage and political strength to follow them). Indeed my criticism of Mrs Thatcher's intellectual mentor, Sir Keith Joseph, would be that he is cutting too few subsidies rather than too many—although I would use some of the resulting savings to relieve the pressure on the health and other personal social services rather than just reduce the basic rate of tax.

That kind of social democracy finds no market in any wing of the British Labour Party, and is practised rather than preached by Helmut Schmidt's German Social Democrats. The fact that this position should seem so eccentric in English-speaking or Latin countries, and so out-of-keeping with what political practitioners in "the centre" are actually saying, has some bearing on the crisis through which social democracy is passing. It is a crisis on which Hayek's writings shed a great deal of light, whether one is a fully-fledged Hayekian or not.

7. Market Signals

THE FIRST CONTRIBUTION of Hayek that I want to stress is his treatment of economics as a social science rather than as an exercise in the optimum allocation of resources. For a long time he was almost alone among market economists in being concerned with the effect of the market system on the evolution and stability of society. Whereas most economists, whether of the Left or of the Right, concentrate on mathematical exercises (sometimes verbal mathematics), trying to work out "solutions" in given conditions, Hayek has been interested in Markets as examples of human institutions, like Language or Law, which have evolved

⁹ The "but also" is my own, not Hayek's gloss. The case is stronger if this concession is made.

without any conscious plan on anyone's part.

For several decades, Hayek has stressed that markets are means of disseminating information diffused among millions of human beings (who will not be conscious of all the information they possess). This information is transmitted in the form of signals—price changes in flexible markets, but also shortages and surpluses where price changes are delayed by habit or law.⁹ They also provide an incentive to meet unsatisfied needs and to move resources from where they are no longer required. Wants, techniques, and resources are not given, but are constantly changing—in part due to the activities of entrepreneurs who suggest possibilities, (whether digital recordings or cheap stand-by transatlantic flights) which people did not know existed before. The market system is a "discovery technique" rather than a way of allocating known resources among known wants with known techniques. The latter problem could, in principle at least, be solved by computers on the entirely libertarian principles that people's preferences should be satisfied to the maximum possible extent for any given distribution of income. No computer can predict, however, the emergence of new knowledge, original ideas, or commercial innovations—and people's reactions to them.

Over and above this, the market provides a method of coordinating the activities of millions of people and of solving problems without a vast apparatus of political decision and of governmental enforcement. The very existence of this self-regulating system is quite unsuspected by 99% of the population, who (to the extent that they think about these matters at all) assume that we must have a national or international "policy" for energy, jobs, productivity, or whatever other problem hits the newspaper headlines.

THIS VIEW OF MARKETS as a discovery procedure and coordinating mechanism is now common property to many economists, especially in the United States (away from the Eastern seaboard). But it is still "Double Dutch" to large numbers of Oxbridge graduates who have been brought up to suppose that they have only to diagnose a departure from some theoretical optimum (so-called perfect competition) in a market to believe they have made a case for government intervention—without asking whether the human beings who will have to carry out that intervention have the knowledge or the motivation actually to improve matters. Too often the defects of real world markets are compared with the hypothetical action of a benevolent and omniscient dictator (as frequently—in the more technical writings—for reasons of mathematical convenience as from any deeply-held convictions).

Here, as elsewhere, the Hayekian approach

opens up rather than solves problems. Hayek sees the market network as a gradually evolving social system rather than as a mathematical solution to the problem of resource allocation on the basis of known, certain, and unchanging information. But just like Language and Law—those other products of social evolution with which Hayek makes explicit comparison—the transmission and incentive mechanisms of the Market can be improved. So shifting attention from the static allocation of resources to “the market as a discovery procedure” does not remove the issue of intervention.

Unfortunately, much of recent government intervention does not make any sort of sense in terms of improving the market, either in the textbook sense as an instrument of allocation, or in the Hayekian sense of a signalling system. The roots of such intervention lie in the defects of the political system. The economic rationalisations given make no sense at all, and they seem to come from people who, far from wanting to improve markets, have never even heard that they exist, and feel they must rush in with a physical and collectivist “solution” to any “problem.”

Examples range from the supposed importance of Exports to the assumed necessity for an Energy policy. Included in the list would be the encouragement of savings as a patriotic virtue, the post-War cult of boasting about “how many houses” governments of differing political parties have “built”, the encouragement of home ownership, and indeed the need for a Housing policy at all. It would encompass “the Importance of the Farmer”, so dear even to the most free-market of Tory Governments.

The list of conventional policies to be condemned can be made to sound heretical, far-out, or downright bizarre. But it is based on very elementary textbook economics as interpreted by iconoclasts who prefer to turn their iconoclasm against the world rather than the textbooks. One does not in the least have to be on the radical Right to accept such a critique. This critique would be compatible with support for a much higher degree of redistribution of income and wealth than we now have, which could only be at the expense of the large mass of voters in the middle. It would also be compatible with much collective action to provide genuine public goods or to discourage anti-social spillovers. (Examples range from the protection of City Centres and spending on the Arts, to improvements of the Health Service, and better state-financed technical training.)

It is instructive to contrast the knee-jerk hostility to markets of many Western social democrats with the Communist economic reformers who are thoroughly disillusioned with “central planning” and are trying to bring in price- and profit-incentives. Tempting though it is to say that Communist economists in Hungary and Poland have a

better understanding of market forces than Heathite members of a Conservative Government, one should go slowly at this point. To publish a set of rules asking the managers of state enterprises to behave *“as if”* they were profit-maximising entrepreneurs in competitive private industry ignores the actual personal motivations faced by these men; and this approach became badly unstuck in the British nationalised industries. You do not make a horse into a zebra merely by painting stripes on its back.

HAYEK LONG AGO pointed out that “Market Socialism” among state enterprises might provide a few mechanical rules such as “Invest where the expected return exceeds a market rule of interest plus a risk premium.” But it would not tell us whether to believe the estimates of return made by state managers. Nor would it help to decide who should be allowed to bid for the available funds, or how new entrants with completely different ideas about techniques, products, and return were to be accommodated. The benefits of the market system can be combined with a considerable state sector and a good deal of redistribution. But they cannot be as easily divorced from “capitalism” as some academics (who do not want to arouse the hostility provoked by this word) would like. Above all, one should avoid the trap of supposing that the copying of a few Western textbook rules (such as marginal cost pricing) would eliminate the Gulag Archipelago. By all means, encourage Communist countries to try to make their economic systems more efficient and humane. But there is a limit to what can be achieved by economic liberalisation alone; and I suspect that many Eastern European economists would be shouting this from the housetops were they but free to do so.

The frequent fallacy of, for instance, radical playwrights in the West is not that they expose hypocrisy, shallowness, and double standards of society. It is that they jump from the demonstration (many things are wrong) to the inference (evils are due to “capitalism” rather than to authority in general). To decide whether the capitalist elements increase the abuse of authority or act as a check on it requires considerable penetration of economic issues. Writers who are avowedly bored by economic analysis should not be encouraged to pronounce on them. Their attempt to do so discredits the exposure of evils which are very real, though wrongly attributed to “capitalism.”

UNFORTUNATELY, MANY WESTERN social democratic politicians have reacted to recent strains in their mixed economies by retreating towards an anti-intellectual interventionism. The Bad Godesberg programme, under which the

German Social Democrats (in 1959) formally dropped the demand for a centrally-directed economy, has become less and less typical of the approach of Social Democrats or even middle-of-the-roaders in other political parties. As a result economists wanting to make intelligent use of the market place are likely to find their most sympathetic audiences on the New Right, especially in the English-speaking countries.

But this should make them particularly on the look-out for underlying divergencies. Professional economists who are sympathetic to market forces put the emphasis on the price mechanism (e.g. letting gas prices or mortgage prices rise in order to ration demand and stimulate supply) and on the profitability test (which is also valid for state industry or workers' co-ops). By contrast, New Right politicians put the emphasis on reduced taxes and government spending cuts, without too many fine nuances about marginal and average rates.

We might note that marketplace economics conflict much less with conservative political values when the emphasis is placed on the carrot-and-the-stick (especially the latter) than when it is founded primarily on a belief in individual freedom and the realisation that there is a strong affinity between "capitalism" and "the permissive society." The carrot-and-stick man will be quite happy to talk of "the punishment fitting the crime." The permissive free-market economist feels uneasy about talk of responsibility and punishment; he prefers to say that people should pay for the social costs of their actions, and he would design institutions and laws to that end. Such differences may seem one of language, but language is important. On crucial, unforeseeable occasions the differences between Conservative Gradgrindism and the more libertarian Marketeer will come to the surface.

8. Rule of Law

CONTRARY TO POPULAR BELIEF Friedrich Hayek has not provided any easily recognisable economic criteria for recognising state intervention of the harmful type. Some commentators suppose that he thinks the slightest move from *laissez-faire* will take us irrevocably along the road to serfdom, while others find that he is, if anything, too pragmatic.

The free market arguments in *The Road to Serfdom* were based on the incompatibility of central planning with personal liberty. But in subsequent years Hayek has approached the issue indirectly. He has argued, especially in *The Constitution of Liberty* (probably his magnum opus),

that the main condition for a free society is what he calls "the rule of law." He certainly does not mean by that that the mere observance by rulers of constitutionally enacted laws is enough. On the contrary he would condemn many perfectly valid legislative acts for being arbitrary, discriminatory, and giving far too much discretion to politicians and officials. It is less misleading if we translate "the rule of law" to mean a presumption in favour of general rules and against discretionary power. Hayek attempts to derive not only the fundamental political and legal basis, but also the economic policies, of a free society from this conception.

"The rule of law" may not, however, rule out everything that Hayek would like it to rule out. Many of the economic doctrines flow better simply from assertions that, if one believes in free personal choice, the direction of economic activity must be decided by the consumer, saver, investor, and worker. This is a straightforward economic deduction, made in *The Road to Serfdom* but accepted—with qualifications about imperfections and externalities—by many mainstream economists.

Nevertheless, Hayek has performed a very great service by bringing back on to the agendas of discussion the idea of the rule of impartial general laws, as something different from the mere constitutional enactment of the policies of elected leaders. This is a theme which has recently become fashionable—but, alas, only in Conservative circles, and then only when the party is in opposition—under the theme of "elective dictatorship."¹⁰

Unfortunately neither Hayek nor anyone else has been able to give a statement of the doctrine of the rule of general laws which will make clear what it implies in particular cases. To say that "laws must not single out named individuals" would not be controversial even among collectivists, and would not be enough to protect us against a great deal of arbitrary legislation. On the other hand general rules must mention categories: traffic laws deal with motor-cars, sales taxes make traders liable and so on. Once this is admitted, it is very difficult to see how rules can be prevented from singling out occupations or industries. Nor is it necessarily always desirable that they should be prevented from so doing. But once we have gone along this road a supposedly general law may well pick out for especially severe treatment a group or even a single individual.

A further restriction is required, but is extremely difficult to formulate. Hayek's proposal—that a general rule should be acceptable to a majority of both those whom it benefits and those whom it harms—is much too strong. For it gives a veto to any minority in any circumstances—for instance, to the Mafia in a proposal for a new law against banditry. And Hayek's illustration of progressive taxation as contrary to the rule of law, because it is

¹⁰ Lord Hailsham, *The Dilemma of Democracy* (1978).

not acceptable to high-rate payers, hardly helps his case. There are many arguments against high marginal tax rates; but the objections of those who pay them are hardly conclusive.

A MORE PROMISING APPROACH is "the veil of ignorance," proposed by John Rawls.¹¹ This is that a rule should be acceptable to someone who has not the slightest idea how he or she, personally, is likely to be affected. Rawls would actually like his reader to suppose that he or she is ignorant of his own personal position in society (and indeed, in some statements, even of the society or century to which he belongs). The use of the veil of ignorance requires a large imaginative effort, even in its less rigorous conception. Moreover, the vast literature generated by John Rawls' work suggests that it is not enough to provide determinate substantive conclusions on which all who accept the basic idea would agree. Personal attitudes towards risk (e.g. the risk of being one of the unlucky ones) and the value attached to the small chance of a large prize will affect a person's attitude to the distribution of property rights, taxes, and transfers.

If it came to laws against fast driving, an individual would either express his own personal trade-off between safety and speed, or in true Rawlsian style try to imagine what he would think if he were ignorant of his own personal temperament. But to deprive someone of one attribute after another in quest of "the veil of ignorance" is to come near to asking him to imagine himself divested of all attributes, in which case he would hardly be a person able to engage in discourse on just rules.

The quest for a foolproof definition of just general rules is most unlikely to succeed. This is not an argument for throwing out the notion. The basic concepts of mathematics, formal logic, and even physics are far from easy to define, but this does not make them useless. ("What is electricity?" said the examiner to the hopeless pupil. "I don't know" was the reply. "Good", said the examiner, "that makes two of us. You pass with honours.") The Rawls veil of ignorance does supply a criterion of disinterestedness, and helps to narrow down the alternative possibilities.

ONCE THE IDEAL of just general rules has been outlined, however hazily, we know well enough that many of the items of the criminal code are as close to impersonal general rules as we can hope to get, just as the Star Chamber and the Press Gang are at the other extreme. We know too, if we are frank, that a piece of legislation which defines an illegal monopoly or restrictive practice, even if only in

prima facie terms, is closer to the ideal than one which leaves everything to the discretion of the minister or some official commission.

General rules are desirable for their own sake. The limitations of the law are more akin to the constraints imposed by nature than are the unpredictable discretionary orders and prohibitions of public officials, and as such are more acceptable to anyone with self-respect.

There are also many cases in which general rules are more likely to be successful in achieving the professed objectives of governments than discretionary policies. Freely floating exchange rates, permanently fixed rates of a gold-standard type, rules about the Budget balance (which can be fairly subtle and allow for deficits in specified circumstances laid down in advance) are all examples of general rules. Discretionary monetary and fiscal policies, "dirty floating", and "fixed but adjustable exchange rates" are all examples of the alternative approach. As anyone familiar with these instances will confirm, the general rules cannot be engraved once-and-for-all on tablets of stone but require continuing interpretation, evolution, and improvement.

Hayek is right to emphasise that general rules are an important protection—perhaps the most important single protection for freedom. If those making a law do not know to whom it will apply and cannot adjust it for the benefit even of themselves or their friends, the laws are less likely to be oppressive. Hayek, however, often argues as if general laws are a sufficient condition for a free society; and this is mistaken. Many policies involving a high degree of coercion can be imposed by general rules—not only the Scottish Sabbath conceded by Hayek, but for instance a ban on foreign travel (to which the exceptions such as business and official travel could be stated quite impersonally). There is no one philosopher's stone for minimising coercion in society. We should applaud Hayek's resurrection of the ideal of "a government of laws rather than men" without expecting that it will always be unambiguous or a sufficient guarantee against oppression.

9. The Myth of Just Reward

THE MOST RADICAL of Hayek's contributions is the denial that it is possible to assess a just reward for people's services and pay them accordingly. This strikes at the most cherished illusion on the Right as well as on the Left. Not merely does Hayek deny that there are ethical or scientific principles for determining, say, a socially just "incomes policy." He also denies that there is any moral merit attaching to the rewards people can obtain in the market-place. Many conservatives,

¹¹ John Rawls, *A Theory of Justice* (1972).

including some who regard themselves as Hayekians, say that the market price for a person's services reflects their marginal value to society and is, therefore, just.

But Hayek is right to insist that, although the first proposition may be true, the inference does not follow. It is expedient that "pay relativities" should reflect market valuations in order to steer resources towards where they are most needed. Moreover, to attempt to override market relativities in the name of "reward according to merit" presupposes that some outside authority can assess how much pain and effort a task has cost (which will, in any case, vary enormously between individuals in the same occupation), and whether people have made as much of their opportunities as they should, and "how much of their achievement is due to circumstances." This is an impossible undertaking, and the attempt to undertake it involves *hubris* of a frightening extent.

Nor is the aim sensible. As Hayek writes, it is more rational for people "to achieve a minimum of pain and sacrifice and therefore a minimum of merit." Perhaps the single most attractive feature of a reasonably free Market Economy is that a person's livelihood does not depend on persuading a public official, or a trade union, or a workers' cooperative of his merit. It is sufficient that he should be able to perform some service for which his fellow-men express a demand, irrespective of whether they like him or not. It is, incidentally, worth observing that "reward according to merit" is quite incompatible with egalitarianism, and is indeed a completely contrary idea.

BUT ALL THIS IS A FAR CRY from saying that the rich, the poor, and the in-between deserve their respective places in society, or would do so if hereditary wealth were eliminated and opportunities more evenly distributed. It is expedient to relate relative pay to market demand and supply; to attempt to substitute a different scale of relative importance would produce horrendous results for more reasons than can be given here. Nevertheless, actual rewards will depend on an unpredictable mixture of effort, ability, and luck. The ability to sing the *Liebestod*, having a nose for commercial opportunities, sporting an attractive appearance or personality are matters of luck not merit. Nor is it a demerit to have trained for an occupation for which the supply has increased (academic teaching) or the demand fallen off (such as steel workers).

This aspect of Hayek's teaching is the most difficult for many of his conservative supporters to accept. Irving Kristol, for instance, complains in a

well-known critique¹² that there are deep-seated yearnings for a moral or theological justification of differences in well-being or position; and that the rational arguments for accepting a system which does not even claim to bring a just distribution of rewards are too abstract to accept. This may be true psychologically. But Hayek is still abundantly justified in warning that a defence of the market system on the grounds that it offers just rewards is bound to fail.

A true Hayekian has no more sympathy than any member of the left-wing *Tribune* Group with the white-collar worker who dislikes being overtaken by blue-collar workers, or with professional men who complain that truck-drivers are now earning more than they are. (A reader of Adam Smith's teachings on "equality of net advantages" among people of comparable abilities and opportunities would expect something like this to happen sooner or later.)

Hayek's denial of the doctrine of just reward is especially attractive because it undermines so much "conventional wisdom." It is the complete opposite of what most Conservative and Republican politicians and most middle-class voters wish to believe. These all feel much better if they can suppose that their relative affluence of former years and any advantages they still retain have been and are rewards for conspicuous merit.

BUT, CHARACTERISTICALLY, HAYEK SPOILS a splendid and heretical contribution to understanding by extending the denial of just occupational reward to the much more sweeping assertion that there is no such thing as "social justice." The value, or otherwise, of distinguishing a special kind of justice from justice in general is not the issue. And it is a semantic problem whether people's ethical views on the distribution of wealth and income should come under "justice" or under some other heading. The substantive point is that Hayek (in striking contrast to John Rawls) insists that *any* public policy towards the distribution of income and property (beyond the provision of a basic social-security minimum) is incompatible with a free society and the rule of law. (I have already mentioned his objection to progressive taxation.) In this he performs a disservice to market economists, who have tried for generations to convey to uncomprehending politicians that it is quite possible to change the distribution of wealth without interfering with market relativities. A combined progressive and negative income tax reduces absolute rewards at the top and increases them at the bottom, *without* attempting job or merit evaluation and without interfering with market rankings.

An ideal shape of an income or property distribution can be expressed in perfectly general mathematical terms without any mention of merit,

¹² Irving Kristol and Daniel Bell, eds., *Capitalism Today* (1971).

occupation, or individuals. Its instruments can be taxes, positive and negative, or the law of property. (For instance, a Capital Transfer Tax could be levied progressively on the beneficiaries rather than on the donors). There could, in addition, be a continuing distribution of rights to dividend income which would dilute the share of existing owners, and even bring in new cohorts as a young generation comes of age. We might begin with a North Sea equity.¹³

To be sure, no conclusion is likely to the debate on the optimal pattern of property rights and tax progression. But this does not mean that nothing sensible can be said. Even the most loyal Hayekian might hesitate to recommend inaction (beyond, say, a small social-security topping-up) if 0.01 per cent of citizens had 99.99 per cent of a country's income and wealth. The fact that they do not do so (and most headline estimates of property concentration are wild exaggerations) is a fortunate fact of economic life. But the logic of Hayek's position is that, if the facts were otherwise, some profound principle of human freedom would or should prevent legislation from interfering. The difference between reward according to merit (or spurious job evaluation) and generalised action to affect distributional patterns is a subtle one for the non-economist to grasp. It is a pity that Hayek's deeply-felt dislike of both has helped to obscure the distinction.

10. The Interest-Group Threat

HAYEK'S MOST RECENT warnings are no longer about the overambitious centralised planning of *The Road to Serfdom* (closely paralleled, incidentally, by George Orwell's 1984), but about the threat posed by the domination of rival interest-groups. This is leading, not to a single centralised

¹³ See: Samuel Brittan and Barry Riley: "A People's Stake in North Sea Oil", *Lloyds Bank Review* (April 1978).

¹⁴ This pretty well disposes of the charge made by the Old Right essayists, such as Maurice Cowling and Peregrine Worsthorne in *Conservative Essays*. Edited by MAURICE COWLING. Cassell, £5.95. They declare that the Hayekian emphasis on freedom is misplaced: there is already too much freedom, and not enough authority. As Shirley Letwin shows (in by far the best essay in that collection), a threat to order is also a threat to liberty (and *vice versa*) in a limited state. "Freedom in this sense is not opposed to order but to the kind of order we associate with war."

But Mr Cowling is descriptively accurate when he writes, "It is not freedom that Conservatives want; what they want is the sort of freedom that will maintain existing inequalities or restore lost ones." A market approach to earnings cannot guarantee such maintenance or restoration.

¹⁵ *The Denationalisation of Money*, Institute of Economic Affairs (2nd ed., 1979).

tyranny, but to shifting pockets of anarchy and petty dictatorship, occurring simultaneously in different areas. The relative stability of expectations about the political and economic framework—which allows individuals to make long-term plans with some stability of expectations about the social rules—is under threat.¹⁴

The main theme of the third and final volume of *Law, Legislation and Liberty* is that democracy has degenerated into an unprincipled auction to satisfy rival organised groups who can never in the long run be appeased, because their demands are mutually incompatible. His main contribution to the discussion of contemporary "stagflation", i.e. the combination of high inflation and high unemployment, is through his analysis of interest-group politics. This is not to under rate his reopening of key issues in monetary theory glossed over by most monetarists,¹⁵ but to agree with him that the obstacles to appropriate monetary policies for containing inflation and to labour market policies for containing unemployment lie in the political sphere.

Hayek goes along with the American-inspired economic theory of politics, which analyses the political market in terms of competitive bidding for the Citizen's Vote, just as commercial businesses compete for the Citizen's Pound or Dollar. But, unlike these theorists, he regards unprincipled vote competition and competitive lobbying as not merely defective—in the way that commercial markets can be only more so—but inherently objectionable because they have nothing to do with justice. He sees them as simply the sharing-out of spoils which people take from their fellow-citizens. The non-specialist who remembers that Volume 2 was devoted to undermining the idea of "social justice" may feel confused by the enormous emphasis on some other sort of justice in Volume 3; and I believe that this dichotomy is unhelpful and unnecessary.

But the matter is too important to be dismissed because of infelicities of presentation. It is surely an achievement for a writer, in his 80th year when the volume was published, to have been able to shift so far from his earlier diagnosis and point to the real threats of the closing decades of the 20th century.

FOR ANYONE WITH EYES TO SEE, the unprincipled vote competition of modern elections is both immoral and ultimately a threat to democracy itself. A universal experience of journalists who have done any doorstep work at elections is hearing the cynical "What will they do for me? . . . I know them . . . All promises and talk." It is not the cynicism that is worrying, but the assumption behind it—that good, honest, uncorrupt government is concerned with giving things to people. It is not. It is concerned with laying down laws or decid-

ing which services should be financed collectively from taxation rather than individually through the market. Both methods and provisions have to be paid for by the citizens themselves. Governments have nothing to give.

Many political theorists, including the American pluralists, have long taken it for granted that politics is and can only be about the accommodation of rival interest-groups, and that if a fair compromise is reached between them we have nothing to worry about. It has been natural for people brought up on this false common sense to claim that what we need is to extend the process further into economic policy. They advocate institutions such as "a national pay forum" and expansion of the NEDC, in which employers meet trade unionists and government representatives, to a point where there can be real horse-trading.

It must be admitted that the harm done by interest-group accommodation has not been spelt out very fully by economists, whether in technical writings or in public explanations. It is, rather, a working assumption shared by most economists and a few "common interest" political theorists, but hardly anyone else. Hayek, for instance, refers readers to Mancur Olson's *Logic of Collective Action*¹⁶ for an explanation. But it is mostly concerned with how interest-groups come into being and are cemented together. The explanation of the damage done is concentrated in a long footnote.

Here too, I can give only a rough sketch of why horse-trading between groups is unlikely to produce a satisfactory economic result. Each party to the bargain is likely to be given some concession which is only mildly damaging to the rest of the community. One group may be granted a tariff on foreign imports; another a protection from the threat of new domestic entrants; a third a delay in the introduction of new methods or deliberate over-manning (called "work sharing") to keep up employment. One group may receive an injection of public money to finance a wage increase unavailable in the market; another large section will receive rent controls and subsidies, thus leading to permanent housing shortage; and another large group "mortgage concessions" leading to over-investment in dwellings. But the harm done by the sum total of these restrictive practices and special deals is very far from mild. Each of us suffers from the concession to the groups to which we do not belong. We would all be better off in the not-so-long term if we could achieve the only horse-trading

worth doing, i.e. an agreement by every group to relinquish its special privileges on the understanding that other groups did the same.

IT SHOULD BE STRESSED that the appointment of spokesmen for wide-ranging groups such as Consumers or Home-owners makes matters worse rather than better. Such spokesmen are all too inclined to press for policies such as "price controls" or "mortgage-rate subsidies" which are in the end detrimental to the welfare of the community and thus to the people they claim to represent. The best way to promote the consumer interest is to encourage competition to serve it in the marketplace, aided perhaps by generalised policies of a non-interest-group kind (such as subsidising consumer information services . . . or making sure that people are legally liable for adverse spillovers, such as dumping noxious substances in rivers).

Of course politics have always had a large element of "pork barrel" and "feeding trough" about them. This was especially true in the USA where "pluralist" (i.e. interest-group) political theory and free-market economics developed, side by side, in splendid isolation. The "pork barrel" in fact does little harm when government activities and aspirations and popular expectations of their results are modest. The defects of politics viewed as an accommodation of interest-groups are thus not probed until it is too late.

The damage done by interest-groups to economic efficiency or growth is, however, the least of the harm. Far more important is that by insisting on real rewards above market-clearing levels for their members they price out of jobs people who may be forced to choose between inferior work (which does not pay them much above the dole) and the dole itself. As Hayek puts it:

"The chief power of the trades unions rests today entirely on their being allowed to use power to prevent other workers from doing work they would wish to do."

But the phenomenon is broader than the coercive power of trade union monopolies in the labour market. Similar "pricing out" results may be achieved by minimum-wage legislation or "employment protection" laws which destroy employment by raising real labour-costs; and by many other measures. Nor is this the end of the affair. For governments have tended to respond to the unemployment created by interest-groups by attempting to spend their way out of it, thus generating rapid and runaway inflation, which can neither be allowed to continue nor be checked without an unpleasant transitional recession. Other responses are attempts at employment creation by protection against imports, which can only transfer the shocks to other people's economies. With most

¹⁶ Mancur Olson, Jr. *Logic of Collective Action* (1965). Olson has subsequently attributed the slow growth of the British economy to the domination of interest-groups in long-established industrial democracies. The analysis is fairly convincing, but the mechanics of the impact of interest-groups on the growth are not elaborated (*The Political Economy of Comparative Growth Rates*, 1979).

countries behaving in this way, the result is likely to be still more unemployment, thus aggravating the original problem.

BUT WORSE EVEN THAN the unemployment problem is the problem of stability. There is no "invisible hand" which harmonises, however imperfectly, the rivalry of groups on distribution from individual self-interest. The relative position of different interest-groups in both the political and commercial markets is not rooted in anything firm, and it is easily upset if a raid is organised to improve the relative position of one group. If such raids are frequent, the pattern of market-clearing

wages is likely to change disconcertingly as groups jostle for position.

This both raises the minimum unemployment level—thus encouraging governments to protect and inflate—and is a direct cause of social tension and disaffection from democratic régimes.¹⁷

Hayek sees the source of interest-group domination in what he calls majoritarian or unlimited democracy. This is known more popularly as "the Mandate doctrine"—the belief that a government elected by a majority of voters (usually a plurality) should be able to enact what it likes without any check. These excessive pretensions can only destroy the real value of democracy as the best way we know of changing the government without force and making rulers accountable to their citizens.

"Majoritarian democracy" is not the only source of interest-group pressure. Such pressure is experienced in Communist Europe, although the interest-groups may be different. But the great expansion of the political sphere (and the crumbling of restraints and inhibitions on what governments may attempt) has increased both the pressures by organised interests on governments and the responsiveness of political leaders to these pressures. There is also the uncomfortable thought that the liberal as well as the majoritarian aspects of democracy may make it unable to deal with interest-group privileges. Most Western politicians and their advisers suppose that thoroughgoing measures to undermine labour-market monopolies would lead to violent resistance which could only be overcome, if at all, by an extreme use of state violence. In the words of Henry Simons, writing over 30 years ago,

"Democracy cannot live with tight occupational monopolies; and it cannot destroy them, once they gain great power, without destroying itself in the process."¹⁸

WE FACE A REAL, not a bogus dilemma. There is a crucial connection between personal and political freedom, on the one hand, and economic freedom on the other, as *The Road to Serfdom* clearly established. In the three-and-a-half decades since it appeared there has not been a single example of a fully collectivist economy retaining basic freedoms. Yet the only societies which seem able to protect a market economy from erosion by interest-groups are certain Pacific Basin countries in which either political freedom or democracy, or both, are absent.

If, as I believe, this authoritarian cure is worse than the disease, what reforms are possible in liberal democracy itself?¹⁹ The dilemma is that we need authority to prevent people tearing each other to pieces and to safeguard at least some personal liberty. But how can we prevent this authority from becoming a source of oppression itself?

William Waldegrave's *The Binding of Leviathan* (1978) fails to make a notable contribution to conservative thinking because of the frequent intrusion of bogus, supposedly technology-based imperatives, in which he swallows much fashionable nonsense on work-sharing, import controls, and so on. Nossiter's is the more truly conservative book.

But in his desire to exonerate the trade unions, Nossiter glosses over the obstacles that interest-group privileges have become to the relaxed society of free men and women which he favours. He rightly says that Britain "should stop worrying about declining industry and actually hasten its demise", concentrating on services and skills which British people enjoy providing and where they have a comparative advantage. But the union interest has made preservation of old jobs a national cult and a Labour Party religion. Nossiter rightly criticises James Callaghan for failing to realise that industrial bail-outs can only be "techniques to ease a transition and not props designed to preserve industry forever." This rather large lapse marred Callaghan's otherwise dignified 1979 election campaign. Nossiter concludes by extolling British "incomes policies" as pioneering examples for the rest of the world in reducing inflation and preparing the ground for conventional Keynesian techniques to expand the economy. The commendation turned out sadly premature, to say the least.

¹⁸ Henry Simons, *Economic Policy for a Free Society* (1948).

¹⁹ *The Coming Confrontation* (ed. Ralph Harris and Arthur Seldon, Institute of Economic Affairs, 1978) is an attempt to answer *inter alia* the following questions.

"For how long can an open society be closed by cumulative restrictions before it becomes difficult to re-

11. The Separation of Powers

HAYEK DOES NOT ANALYSE the question of how legislatures could tackle entrenched interest-group powers without undermining liberal principles in the methods used. It may be that the problem was exaggerated both by Simons in the early 1940s and by those who spoke about the "ungovernability" of Britain in the 1970s. One does not have to apologise for agnosticism on this issue.

The proposals of Hayek are related to the other problem: the protection of the legislative body from interest-group pressure. He proposes two entirely different parliamentary bodies, elected in entirely different ways: one concerned with "the general rules of just conduct" or the Legislature in the true sense; and the other a Governmental Assembly concerned with supervising the managerial decisions of the elected rulers, who would be acting within the framework of basic law developed by the legislative assembly.

This is not as strange as it sounds. The distinction has roots in both political theory and practice; and it is very similar to the distinction which Michael Oakeshott makes between *politics* (which is discussion about the framework of law in which individuals should pursue their aims) and *ruling* (the activity of people who occupy certain offices). It is even more to be distinguished from the management of an enterprise association, such as a company or a church or club, which has agreed common purposes. What Oakeshott calls "civil association" has no purposes. It provides the rules under which individuals seek to fulfil their own aims.²⁰

Oakeshott is too fastidious to recommend anything. He is ostensibly just discussing what "civil

open? If the restrictions create expectations of permanence of employment, incomes and other property rights, will proposals for reform by analysis, debate and persuasion encounter tension and discord with a risk to the survival of liberal society?"

These are excellent questions, given real point by the crisis in the Labour Party, whose "moderate" leaders risk making it even more an instrument for the trade-union barons in return for the latter's protection against the unpopular collectivism of the annual Party Conference.

Unfortunately, the division of *The Coming Confrontation* among twelve different authors, with no coherent division of subject matter, prevented the volume from fulfilling its original promise despite individual insights; and the tone of the book did not justify the sensationalist title. The IEA has done more to put "market economics" on the map than any other organisation, and mainstream economists have been forced to take its publications seriously to keep abreast of professional debate.

But it is not always right in its judgment of the relative importance of its different pieces of writing. It should place more trust in the luck of the market, with all its imperfections, and be less inclined to look for "conspiracy" explanations for the relative amount of press attention paid to its different publications.

²⁰ Michael Oakeshott, *On Human Conduct* (1975).

association" really is, although his own convictions do slip out when he remarks that

"caring for the condition of a civil association . . . calls for so exact a focus of attention and so uncommon a self-restraint that one is not astonished to find this mode of human relationship to be as rare as it is excellent."

Hayek, unlike Oakeshott, tries to find some mechanical means for restoring the conditions of civil association, although he has no illusions that his ideas stand a chance until there has been a great change in the climate of opinion. His Governmental Assembly would be elected much as at present and would provide a majority for the government of the day. The other, Legislative, Assembly, in which his real interest clearly lies, would be elected in yearly cohorts and consist of people aged 45 to 60, sitting for fifteen years. Each elector would vote only once in his life for his legislative representative; and there are other ingenious proposals to protect electors and elected from interest-group pressures.

IT IS ALL TOO EASY to raise an eyebrow at the bizarre mechanics and at the way in which an upholder of the slow organic evolution of rules and practices has emerged as a wildly Benthamite constitutional engineer. But such sneers are as pointless as they are wrong. There are many other ways in which the Legislature might be chosen so that it contained, for instance, both younger and older people. The essential point is that there should be an element of *continuity*, and of protection from cruder interest-group appeals, in the selection of legislators who would put some limits on the activities of government and the Governmental Assembly. Moreover, the recognition of the need for deliberation and conscious choice in the rules we follow is an improvement on Hayek's position in his more theoretical works, where he puts excessive stress on tradition and evolution.

The real grounds for misgiving are different. Hayek's legislators bear some resemblance to the members of the US Supreme Court, with the difference that they would be openly making law instead of doing so by stealth. The Supreme Court is in many ways a third assembly, additional to Congress and the Senate. The combination of Presidential selection and long periods of office provides just that combination of stability and responsiveness to prevailing open government for which Hayek is aiming. But Hayek could not claim that the Supreme Court has protected the USA from interest-group pressures.

More than that, it is far from certain that a legislative assembly whose members had a long tenure would in fact enact only the very general non-discretionary rules Hayek favours. They may be a little less nakedly open to highly specific

interest-group pressures; but it is all too easy to see them establishing tribunals for the Regulation of Wages and Prices "on the merits of the case" and allocating subsidies or establishing tariffs in a similar spirit. Not only is it extremely unlikely that they would accept Hayek's argument against progressive income tax; it is far from certain that they would even prevent arbitrary distortions of that progression through inflation. They might conceivably establish an independent central bank, with a clear-cut responsibility to limit the money supply to a non-inflationary amount. But this is hardly to be relied upon, as attitudes here are likely to vary with prevailing trends and fashions.

The biggest weakness of Hayek's proposals for a Legislative Assembly is not the method of selection but the lack of even a vague picture of how it would operate in practice in relation to the Governmental Assembly. He is explicit that the Budget must be considered by the latter body. But the majority party in that assembly would not have unlimited freedom to make any budgetary provisions it liked, or the whole point of the arrangement would go. Would it set rates within a tax structure designed by the legislators? Where would the boundary be? Would there be any limits to tax progression, or for that matter any guarantees for social security beneficiaries? Here we are merely told that the principles of public finance would have to be rethought.

It is certainly worth trying to elaborate and improve the Hayekian idea for two assemblies—which might in Britain seem less "way out" if tied in with proposals to reform the House of Lords and for setting up a Constitutional Court. Whether in

the end it will prove possible to separate law-making from government policy sufficiently to protect democracy from interest-groups, or whether some other route will turn out more feasible, I do not pretend to know. Hayek may be a shade too scathing about the case for lesser reforms (e.g. proportional representation); but it would be idle to pretend that they do more than scratch the surface.

WHAT DOES SEEM INCONTROVERTIBLE is that political auctioneering, interest-group pressure, and the combination of excessive expectations from collective action with excessive contempt for governmental and legal institutions are a threat not merely to some pure imaginary *laissez-faire* dream, but also to a functioning "mixed" or "corrected" market economy—and for that reason a threat to individual freedom and popular government. If we are ever to reconstruct our politics, some of the key Hayekian doctrines—such as preference for rules over discretionary authority; the non-divine right of a temporary majority; the connection between markets and freedom; the realisation that rewards in this world neither can nor should reflect merit; and that a healthy political system is not a horse-trough at which interest-groups drink—will have to come into their own.

Conservatives may pay lip-service to some of these ideas; and even follow a few of them partially and erratically. But it is progressives and radicals, now looking for new directions, who have most to learn from them—if only they could shed a few prejudices and illusions.

Outside Inside

Pigeons perch on the Holy Family
Carved over the west door, on Joseph's head

On Mary's hand, making them smirk like humans
Who are kind to animals. Inside

The church now, we look out: the birds
Fly through the brown and scarlet saints, and crawl

Like sleepy wasps against their sandalled feet,
Lords of the window, devils looking in.

Then from the street a backfire sends them packing
Only the stolid and the deaf stay on.

The saints are left to bow. The pigeons' wings
Clap round the square like faraway applause.

Patricia Beer